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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,603	03/28/2001	Toru Niki	35.C15232	1892
5514	7590	04/13/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			THOMPSON JR, FOREST	
			ART UNIT	PAPER NUMBER

3625

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,603

Applicant(s)

NIKI ET AL.

Examiner

Forest Thompson Jr.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3625

DETAILED ACTION

1. Claims 1-18 have been examined.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Horn et al. (U.S. Patent No. 6,631,356) (hereafter referred to as Van Horn).

Claims 1-18: Van Horn teaches applicant's invention. For example, Van Horn teaches that an online buying group (referred to herein as a "co-op") is formed for the specific purpose of purchasing a particular product by defining a start time, end time, critical mass, any minimum number of units offered, any maximum number of units offered, starting price and product cost curve. As data is gathered from buyers, by means of their making binding purchase offers, the co-op is modified using a pricing tool, so as to take into account for this market data in the definition of the price curve. A buyer chooses a product co-op of interest. The buyer is presented with the following essential co-op information: current price, closing time, next price level (as defined by a price curve visibility window and the price curve) sufficient to entice the buyer to make

Art Unit: 3625

an offer. Once a buyer has made up his mind, the decision must be made to offer a purchase price which includes the current price, guaranteeing availability if critical mass has been achieved, or to make an offer at a lower price range that can be accepted only if the co-op price drops to that level, which may not occur. Given a decision to make an offer at such lower price, the buyer enters such maximum price at which he is willing to purchase the product. Should the current price drop to the level at which the offer was made, the price contingency is removed from such offer and assuming critical mass is achieved, the offer is accepted at the close of the co-op, and processed accordingly. Inventory is allocated to fulfill the accepted offer following the closing of the co-op.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art includes:
 - Walker et al. (U.S. Patent No. 6,418,415) that teaches an aggregate conditional purchase offer (CPO) management system for receiving and processing CPOs from buyers for one or more goods or services is disclosed. Received CPOs are processed to determine whether the CPO should be provided to sellers individually and/or collectively as part of an aggregate CPO. If a CPO is accepted individually, or collectively as part of an aggregate CPO, the buyer is bound on behalf of the accepting seller. CPOs are administered on

Art Unit: 3625

behalf of groups of buyers to form aggregate CPOs which are offered to sellers.

Groups are preferably formed dynamically in accordance

with predefined aggregation rules.

- Shkedy (U.S. Patent No. 6,260,024) that teaches systems and methods that are described for providing a global bilateral buyer-driven system for creating binding contracts by incorporating various methods of communication, commerce and security for the buyers and the sellers. Individual buyers purchase requirements are aggregated into a single collective purchase requirement and sellers are located willing to bid on the collective purchase requirement. A central controller facilitates the buyer/seller transaction by fielding binding offers from buyers, aggregating those offers into group (i.e. pooled) offers and communicating those group offers globally in a format which can be efficiently accessed and analyzed by potential sellers. This system can also effectuate performance of resulting contracts, resolve disputes arising from those contracts, and maintain billing, collection, authentication, and anonymity. The methods disclosed are applicable to any commerce situation involving buyers and sellers.

- Pallakoff (U.S. Patent No. 6,269,343) that teaches a method and system that allows sellers to communicate conditional offers to potential buyers. The conditions include prices that depend on the aggregate amount of goods or services that buyers collectively agree to purchase by a given time and date. The invention facilitates "demand aggregation", that is, aggregating demand by potential buyers (who may or may not know each other), for products offered by sellers. This invention allows sellers conveniently to offer "Demand-Based


Art Unit: 3625

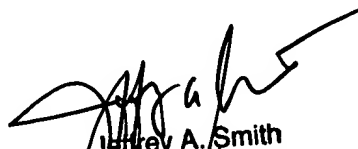
Pricing", that is, prices which go down as the volume of units sold in any given offer goes up. A seller can therefor offer volume discounts to buyers acting as a group, even when the buyers may not have any formal relationship with one another.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30 AM-3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FT 
04/02/2004


Jeffrey A. Smith
Primary Examiner